IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12508 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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PATEL HARISHBHAI BHANUBHAI

Versus

CHIEF POST MASTER

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Appearance:

1. Special Civil Application No. 12508 of 2000

MR KB PUJARA for Petitioner No. 1-2

MR BIPIN I MEHTA for Respondent No. 1

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CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 27/07/2001

ORAL JUDGEMENT

Rule. Mr. Bipin I. Mehta waives service of Rule for respondent.

In this petition under Article 226 of the Constitution, the petitioners, two in number, are sons of late Mr. Bhanubhai B. Patel and late Mrs. Kamuben Bhanubhai Patel who subscribed to the public provident fund where they were permitted to open PPF Account No.337 in General Post Office at Ahmedabad on 28-3-1987. The deceased continued to make subscriptions to the above account from year to year and interest on the subscriptions was credited in the said account from time to time. The pass book of the said PPF account is annexed at Annexure A to the petition. Both the account holders unfortunately expired in an accident on 13-11-1999. The petitioners, who are both sons of the deceased, obtained succession certificate dated 24-4-2000 from the City Civil Court at Ahmedabad in Civil Misc. Application No.1007 of 1999. The petitioners then submitted an application dated 11/15-5-2000 to the respondent -Chief Post Master General, G.P.O., Ahmedabad along with the death claim form, death certificate, succession certificate and PPF pass book. As required by the respondent, the petitioners also submitted the claim application for settlement of PPF account of the depositors where the claim is preferred on legal evidence of heirship. In view of compliance with all the formalities, the petitioners were expecting to be paid the amount lying to the credit of their deceased parents in the above PPF account with interest thereon till the date of payment. However, the respondent addressed a letter dated 10-10-2000 (Annexure D) stating that claim application of the petitioners was returned back because the said PPF account was initially opened irregularly and that the petitioners could close the said PPF account without interest as the account was initially opened in contravention of the Rules. It is the aforesaid communication which is under challenge in this petition.

2. In response to the notice, affidavit-in-reply has been filed by the respondent, Chief Post Master, General Post Office, Ahmedabad contending that opening of the account was irregular and was in violation of section 4 of Public Provident Fund Act, 1968 (hereinafter referred to as `the Act'). The same is quoted hereunder:

> "Sec.4 : Any individual may, on his own behalf or on behalf of a minor of whom he is a guardian, subscribe to the fund in such manner and subject to such maximum and minimum limits as may be specified in the Scheme."

It is contended that the PPF account could have

been opened only in the name of one individual and since it was wrongly opened in the name of two individuals, the account was irregularly opened and, therefore, interest accrued on the subscription made cannot be paid to the petitioners as subscriptions paid into the said account themselves could not be treated as valid subscriptions.

It is further contended that since the account was irregularly opened, the petitioners are not entitled to interest at the rates applicable to the subscriptions under the PPF Act, the interest is payable only as per the Government letter dated 24-9-1970 which provides that when the PPF account is opened in contravention of the Rules, the amounts deposited in the said account will bear interest at the prevailing rate.

3. In response to the query from the Court, Mr. Bipin I Mehta, learned Additional Standing Counsel for Union of India, states that such rate could be lower than the rate of interest available to the other subscribers of PPF accounts.

4. Mr. Pujara, learned counsel for the petitioner has submitted that the account opened in the name of deceased parents of the petitioner cannot be said to be illegal or irregular. It is submitted that "any individual" does not connote that the account could be opened only in the name of "one individual". The learned counsel has relied upon the provisions of the General Clauses Act in support of his contention that singular could include plural. It is further submitted that in any view of the matter, it was the respondent or the Postal Department which had opened the PPF account, the deceased parents of the petitioners were only applicants and the agent with whose assistance the deceased parents had opened the account was an agent recognised by the Postal Department itself. In any case, the final act of opening the account was done by the Officer of the Postal Department and not by the deceased parents or the authorised agent. It is further submitted that in any view of the matter, the opening of the PPF account in the joint names of two persons could not be said to be in contravention of the aforesaid provisions and in any case it did not amount to any irregularity, much less any illegality.

5. Mr. Bipin I Mehta, learned Additional Standing Counsel for the respondent has opposed the petition and reiterated the averments and submissions made in the reply affidavit.

6. Having heard the learned counsel for the parties, it appears to the Court that the stand take by the respondent is not at all tenable.

Section 13 (2) of the General Clauses Act, 1897, provides that "in all Central Acts and Regulations, unless there is anything repugnant in the subject on context, words in the singular shall include the plural, and vice versa."

What the provisions of sec. 4 of the PPF Act, 1968 envisage is that the account can be opened in the name of an individual and not in the name of any other legal entity such as a firm or a company. It does not envisage that a joint account cannot be opened in the names of two individuals. Of course, the limit on the maximum amount of Rs.60,000/- which can be deposited in a PPF Account in one financial year would apply to the account and therefore, two individuals having a joint account cannot deposit Rs.1,20,000/- in one financial year but there is nothing in the language of section 4 which could be construed as a prohibition against opening of joint accounts. It may be the practice of the Department generally to accept applications of only single individuals, however, that long standing practice cannot take away the legal rights of the individuals who have inherited the properties of the deceased. It is not possible to uphold the contention urged on behalf of the respondent that section 4 prohibits the opening of a PPF account in the names of two individuals.

7. Moreover, it was with open eyes that the PPF account was opened by the Postal Department in the joint names of the parents of the petitioners. There is no allegation of misrepresentation or concealment of facts by the account holders. As observed by this Court in the judgment dated 3-5-2000 in Special Civil Application No. 3422 of 2000, when the department had accepted the opening of the account and the petitioners or their parents never made any misrepresentation or concealed any fact nor suppressed any fact from the department, in such a situation, the functionaries of the Government (who have to deal with Savings Schemes which are public oriented schemes and to give an incentive to the members of the public at large for depositing the amounts to make the savings for a rainy day and earn interest on the said money as per the scheme) cannot be allowed to act and take such an arbitrary and incomprehensible stand after they themselves had accepted the opening of the account and the same was operated with addition of interest from time to time.

8. In view of the above finding, the question for giving petitioners interest at any lower rate than the rate of interest available to other subscribers of the PPF account does not arise. The petitioners shall have to be paid interest on the subscriptions made to the PPF account as per the rate of interest available to the other account holders in the PPF scheme.

9. In view of the above discussion, the petition is allowed. The decision contained in the impugned communication dated 10-10-2000 (Annexure D) is quashed and set aside. The respondent is directed to pay the petitioners the amount lying to the credit of PPF account No.337 and interest thereon at the rate at which interest is paid to other subscribers under the PPF scheme without reducing the rate of interest. The interest shall be paid till the date of payment to the petitioners. In view of the succession certificate obtained by the petitioners and other formalities having been complied with, and it not being the case of the respondent that there is any infirmity in the application submitted by the petitioners or any other impediment in payment of the amount, the respondent shall comply with these directions within two months from the date of receipt of the writ of this Court or a certified copy of this order, whichever is earlier.

Rule is accordingly made absolute. Direct service is permitted.

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